IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

E360INSIGHT, LLC, an Illinois Limited Liability Company, and DAVID LINHARDT, an individual	)	
Plaintiffs,	)	**06 CV 3958**
v.	)	**Judge Kocoras**
THE SPAMHAUS PROJECT, a company limited by guarantee and organized under the laws of England, aka THE SPAMHAUS PROJECT LTD,	)	**Magistrate Judge Brown**
Defendant.	)	

PLAINTIFFS' MOTION TO COMPEL

Plaintiffs, e360Insight, LLC and David Linhardt (collectively "Plaintiffs"), by and through their attorneys, Synergy Law Group, LLC, pursuant to Federal Rules of Civil Procedure 37, move for an order compelling answers to Plaintiff's Interrogatories Nos. 7, 8, 13 and 19 directed to Defendant, The Spamhaus Project, aka The Spamhaus Project Ltd. ("Defendant"), and in support thereof, state as follows:

Introduction

1. On September 21, 2007, the Seventh Circuit entered an opinion affirming the granting of a default judgment against Defendant and remanded the matter for a determination of damages.

2. On December 28, 2007 Plaintiff, e360Insight, LLC, served Defendant with interrogatories pursuant to Fed. R. Civ. P. 33. Attached as Exhibit A is a true and correct copy of the interrogatories.

3. On June 10, 2008 Defendant provided revised responses and objections to the interrogatories. Attached as Exhibit B is a true and correct copy of Defendant's answers.

4. On July 9, 2008 at 11:00 a.m., counsel for the Plaintiff, Dan Peters, and counsel for the Defendant, Chad Bell, met in person at the offices of Jenner & Block, LLP to discuss Defendant's objections to interrogatories nos. 7, 8, 13 and 19.

5. At the July 9, 2008 conference, counsel for Defendant stated that he would discuss the interrogatories with his client, the Defendant, and provide the Plaintiff with his client's response. No response was received. On October 27, 2008, counsel for the Defendant indicated Defendant would not supplement Defendant's prior response and wished to stand on its prior objections.

6. Plaintiff has made a good faith attempt to resolve the discovery, however, the parties have been unable to reach an accord.

Response to Defendant's General Objections

7. General objections are not favored and may only be used to preserve objections based on relevancy. *Sullivan v. Conway*, 1995 U.S. Dist. LEXIS 14113 *5 (N.D. IL 1995).

8. Defendant's general objections are not relevant or implicated by the interrogatories at issue for this Motion to Compel.

9. Defendant's general objections are not stated with the specificity required by Fed. R. Civ. P. 33(b)(4) and should be summarily denied.

10. With respect to the Defendant's general objections based on confidentiality or privilege, Defendant has failed to identify the documents or items withheld pursuant to such privilege as mandated by Fed. R. Civ. P. 26(b)(5).

Argument

11. Plaintiffs propounded written interrogatories to obtain information relevant to their claim for damages. The interrogatories at issue deal directly with identifying when damages began to run and the location and types of assets Defendant possesses as a means for satisfying the judgment and ensuring that Defendant does not dissipate assets.

12. The following are the (1) interrogatories at issue, (2) Defendant's answers and (3) Plaintiffs' response for purposes of this Motion to Compel:

INTERROGATORY NO. 7: Identify the person or persons involved in the decision to list IP addresses on the SBL.

ANSWER: In addition to the General Objections, Spamhaus objects to Interrogatory No. 7 on the grounds that it is vague, ambiguous and overbroad to the extent that it seeks information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence. This interrogatory is not relevant because it does not seek information relating to damages and is outside the scope of allowable discovery pursuant to the opinion by the Seventh Circuit. Additionally, this interrogatory is overbroad due to its unlimited time frame and misdirected focus.

RESPONSE: This interrogatory is not vague, ambiguous or overbroad. It is direct and succinct and seeks relevant information. It is related to damages because any such individuals will have knowledge of when SBL listings were made and also have information on the harm caused to the owners of the IP addresses. Plaintiffs will limit the time frame to begin with the decision to list e360 and/or Dave Linhardt on the SBL to the current date. In addition, e360 previously propounded a production request upon the Defendant seeking any documents regarding Defendant's communications relating to the Plaintiffs, the placement of Plaintiffs on the ROKSO list or the SBL, or other pertinent issues in this matter. Defendant has failed to produce any correspondence from employees of Defendant or any other internal documentation. It is believed several internal documents and emails exist. Defendant has failed to produce any internal correspondence in response to the requests. Defendant has objected to Plaintiffs' production requests stating that said requests are overbroad. Plaintiffs have been unable to limit or define its requests due to Defendant's failure to provide Plaintiffs with the information necessary to do so. Plaintiffs therefore seek to compel Defendant's response so that it may obtain the requested documents.

INTERROGATORY NO. 8: Identify the person or persons involved in the decision to place IP addresses controlled by e360 and/or Dave Linhardt on the SBL.

ANSWER: In addition to the General Objections, Spamhaus objects to Interrogatory No. 8 on the grounds that it is vague, ambiguous and overbroad to the extent that it seeks information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence. This interrogatory is not relevant because it does not seek

information relating to damages and is outside the scope of allowable discovery pursuant to the opinion by the Seventh Circuit. Additionally, this interrogatory is overbroad due to its unlimited time frame and misdirected focus.

RESPONSE: This interrogatory is not vague, ambiguous or overbroad and it seeks relevant information. It is not vague or ambiguous because it specifically seeks the identity of individuals involved in the decision to place IP addresses controlled by e360 and/or Dave Linhardt on the SBL. It is not overly broad because it is limited to those individuals involved in the decision. It is relevant or may likely lead to relevant information on damages because any such individuals will have knowledge of when SBL listings were made and also have information on the harm caused to the owners of the IP addresses. Plaintiffs will limit the time frame to begin with the decision to list e360 and/or Dave Linhardt on the SBL to the current date. In addition, e360 previously propounded a production request upon the Defendant seeking any documents regarding Defendant's communications relating to the Plaintiffs, the placement of Plaintiffs on the ROKSO list or the SBL, or other pertinent issues in this matter. Defendant has failed to produce any correspondence from employees of Defendant or any other internal documentation. It is believed several internal documents and emails exist. Defendant has failed to produce any internal correspondence in response to the requests. Defendant has objected to Plaintiffs' production requests stating that said requests are overbroad. Plaintiffs have been unable to limit or define its requests due to Defendant's failure to provide Plaintiffs with the information necessary to do so. Plaintiffs therefore seek to compel Defendant's response so that it may obtain the requested documents.

INTERROGATORY NO. 13: Identify all employees and volunteers of Spamhaus and identify the job/function they perform, their salary and any other compensation they receive.

ANSWER: In addition to the General Objections, Spamhaus objects to Interrogatory No. 13 on the grounds that is overly broad, unduly burdensome, and seeks documents not relevant or reasonably calculated to lead to the discovery of admissible evidence on the issue of damages. A list of Spamhaus' employees or volunteers is not relevant to what damages Plaintiffs have allegedly suffered. This interrogatory is not relevant because it does not seek information relating to damages and is outside the scope of allowable discovery pursuant to the opinion by the Seventh Circuit. Additionally, this interrogatory is overbroad due to its unlimited time frame and misdirected focus.

RESPONSE: This interrogatory is directly relevant to damages as it will allow Plaintiffs to determine if assets were improperly dissipated and it will identify individuals with knowledge of the communications with third parties concerning Plaintiffs and thus allow Plaintiffs to determine when damages started to arise. In addition, e360 previously propounded a production request upon the Defendant seeking any documents regarding Defendant's communications relating to the Plaintiffs, the placement of Plaintiffs on the ROKSO list or the SBL, or other pertinent issues in this matter. Defendant has failed to produce any correspondence from employees of Defendant or any other internal documentation. It is believed several internal documents and emails exist. Defendant has failed to produce any internal correspondence in response to the requests. Defendant has objected to Plaintiffs' production requests stating that said requests are overbroad. Plaintiffs have been unable to limit or define its requests due to Defendant's failure to

provide Plaintiffs with the information necessary to do so. Plaintiffs therefore seek to compel Defendant's response so that it may obtain the requested documents.

INTERROGATORY NO. 19: Identify the location of where data and other assets are stored.

ANSWER: In addition to the General Objections, Spamhaus objects to Interrogatory No. 19 on the grounds that is overly broad, unduly burdensome, and seeks documents not relevant or reasonably calculated to lead to the discovery of admissible evidence on the issue of damages. The location of data and other assets for Spamhaus is not relevant to what damages, if any, Plaintiffs have allegedly suffered. It is Plaintiffs who are claiming that their financial position has been affected by Spamhaus' actions, and the Seventh Circuit has ordered them to prove it. *e360 Insight, LLC v. The Spamhaus Project*, 500 F.3d 594, 603 (7th Cir. 2007). Thus, Plaintiffs' financial information is relevant, but Spamhaus' financial information is not.

RESPONSE: This interrogatory is not overly broad or unduly burdensome and is directly relevant to allow Plaintiffs to assess the assets and other property of Spamhaus and to determine the ability of Spamhaus to satisfy judgment once damages are calculated. It will also allow Plaintiffs to confirm that assets and data are not being dissipated. It is not overly broad or unduly burdensome because it merely seeks to have Defendant identify its current assets, which is something it certainly does, at least, on a yearly basis.

Conclusion

For the reasons stated herein, Plaintiffs respectfully request that this Court enter an Order compelling complete answers to Plaintiffs' Interrogatories Nos. 7, 8, 13 and 19 and for any other such relief that it deems just.

e360Insight, LLC and David Linhardt,
Plaintiffs.

By: /s/ Bartly J. Loethen
One of Their Attorneys

Bartly J. Loethen (6225484)
Joseph L. Kish (6197916)
Shaina A. Moss (6283585)
Synergy Law Group, LLC
730 West Randolph, 6th Floor
Chicago, Illinois 60661
Telephone: (312) 454-0015
Facsimile: (312) 454-0261

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing Plaintiff's Motion to Compel was served upon the attorneys listed below electronically through CM/ECF on October 28, 2008.

Craig Christopher Martin cmartin@jenner.com,docketing@jenner.com

Matthew M. Neumeier neumeierm@howrey.com,basak@howrey.com

David Eric Jimenez-Ekman djimenez-ekman@jenner.com,docketing@jenner.com

Bartly Joseph Loethen bart@synergylawgroup.com,nmcdonald@synergylawgroup.com

Andrew Bruce Cripe acripe@hinshawlaw.com,courtfiling@hinshawlaw.com

Stephen M Geissler sgeissler@jenner.com

Joseph L Kish jkish@synergylawgroup.com,nmcdonald@synergylawgroup.com

Evan D Brown ebrown@hinshawlaw.com

Shaina Anne Moss smoss@synergylawgroup.com,nmcdonald@synergylawgroup.com

Chad Emerson Bell cbell@jenner.com,docketing@jenner.com

By: /s/ Bartly J. Loethen
One of Their Attorneys

Bartly J. Loethen (6225484)
Joseph L. Kish (6197916)
Shaina A. Moss (6283585)
Synergy Law Group, LLC
730 West Randolph, 6th Floor
Chicago, Illinois 60661
Telephone: (312) 454-0015
Facsimile: (312) 454-0261

EXHIBIT

A

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

E360INSIGHT, LLC, an Illinois Limited Liability Company, and DAVID LINHARDT, an individual	)	
Plaintiffs,	)	**06 CV 3958**
v.	)	**Judge Kocoras**
THE SPAMHAUS PROJECT, a company limited by guarantee and organized under the laws of England, aka THE SPAMHAUS PROJECT LTD,	)	**Magistrate Judge Brown**
Defendant.	)	

PLAINTIFFS' FIRST SET OF INTERROGATORIES TO DEFENDANT

Plaintiff, e360Insight, LLC ("e360"), by and through its attorneys, Synergy Law Group, LLC, pursuant to Federal Rules of Civil Procedure 26 and 33, propounds the following Interrogatories to Defendant The Spamhaus Project, aka The Spamhaus Project Ltd., (Defendant), to be answered within 30 days of the date of the attached certificate of Service.

Definitions

A. The term "you" or "your" means Defendant, The Spamhaus Project, aka The Spamhaus Project Ltd., and any of its predecessors, successors, subsidiaries, current and former employees, partners, agents, attorneys, representatives, and all other persons acting in concert with or on behalf of Defendant, The Spamhaus Project, aka The Spamhaus Project Ltd.

B. The term "person" or "persons" means a natural person or an entity, any business entity, corporation, partnership, joint venture, firm, trust, group, association, sole

proprietorship, any other business entity or any federal, state or local government agency or governmental body.

C. The term "document" or "documents" as used herein means the original and any identical or non-identical copy, regardless of origin or location, of all written, typewritten, printed, handwritten, computer, recorded or graphic material of any kind or character, including, but not limited to, computer files, drafts, letters, correspondence, telegrams, memoranda, records, tapes, transcripts, programs, photographs, tape recordings, charts, graphs, indexes, minutes, contracts, leases, agreements, handwritten notes, notations of conversations or conferences, interoffice communications, periodicals, bills, schedules, price sheets, time cards, work records, bulletins, circulars, pamphlets, studies, notices, summaries, papers, reports, books, teletype messages, facsimile messages, emails, invoices, worksheets, computer printouts, data sheets, data processing tapes, cards, or disks, interoffice communications, forms insurance policies, vouchers, expense account reports, recordings and transcripts thereof, and any other writings, recordings or information stored in computer memory, however produced or reproduced which are now or have ever been in your possession, custody or control or in the possession, custody or control of any of your agents, officers, employees, representatives, or attorneys, and any other document and tangible item subject to discovery under Fed, R. Civ. P. 26.

D. The term "communication" or "communications" means any and all inquiries, discussions, conversations, negotiations, agreements, understandings, meetings, telephone conversations, electronic mail (e-mail), letters, notes, memoranda, telegraphs, advertisements, and any and all other forms of verbal exchange, whether oral, written, or

electronically transmitted, or any summaries, paraphrases or records of any of the foregoing.

E. The term "identify" (with respect to natural persons) means to set forth the person's (i) full name, (ii) present or last known business or residence address, (iii) present or last known place of employment and position, and (iv) telephone number. Once a person has been identified in accordance with this subparagraph, only the name of that person needs to be listed in response to subsequent discovery requesting the identification of that person.

F. The term "identify" (with respect to business organizations) means to set forth (i) the full name of the organization, (ii) its address, (iii) the form of the organization (e.g. corporation, partnership, etc.), and (iv) the state under whose laws such organization was formed.

G. The term "identify" (with respect to communications) means to set forth (i) the types, manner, or means of the communication (i.e., by letter, telephone call, e-mail, interview, meeting, etc.), (ii) the date of the communication, (iii) the place of the communication, (iv) the general subject matter(s) of the communication, (v) sender(s) and recipient(s) of the communication, and (vi) each document that embodies, relates to or refers to the communication.

H. The term "identify" (with respect to documents) means to set forth (i) the type of document (ii) its date, (iii) its general subject matter(s), (iv) each author, signatory, addressee, and recipient thereof, (v) its custodian, and (vi) its present or last known location.

I. The term "relate" or "relating to" means to refer, pertain, concern, describe, establish, demonstrate, evidence, or bear or touch on.

J. The terms "this litigation" and "Complaint" mean the Amended Complaint filed by Plaintiff in this litigation entitled *e360Insight, LLC and David Linhardt v. The Spamhaus Project, aka The Spamhaus Project Ltd.*, filed in Cook County IL under Case No. 06 CH 12259 and removed to the U.S. District Court for the Northern District of Illinois under Case No. 06 CV 3958.

K. The term "ISP" means Internet Service Provider.

L. The term "ROKSO list" means the Registry Of Known Spam Offenders, maintained by Defendant and published at. http://www.spamhaus.org/rokso/index.lasso.

L. As used in these requests, the singular includes the plural, and the plural includes the singular; the masculine, feminine or neuter pronouns include each other; the disjunctive "or" and the conjunctive "and" include each other; and each of the functional words "each", "every", "any", and "all" shall include all of the other functional words, as necessary to bring within the scope of this request any documents that might otherwise be construed to be outside the scope.

Instructions

A. In responding to these interrogatories, furnish all information in Defendant's possession, custody or control and in the possession, custody or control of Defendant's members, managers, employees, agents, attorneys, representatives, and any other persons acting on Defendant's behalf, and not merely such matter as is in Defendant's possession.

B. These interrogatories are to be deemed continuing. Defendant is requested to provide, by way of supplementary responses, such additional information and

documentation as may hereafter be obtained by Defendant, or any person on Defendant's behalf, that will augment, supplement or otherwise modify the answers now given to the following requests.

C. If any of these requests cannot be responded to in full, answer to the extent possible, specifying the reasons for Defendant's inability to answer to the remainder and stating what information you do have concerning the unanswered portion.

Privileged Matter

You are requested to identify and list all documents or responses called for by these interrogatories but withheld from production on the grounds of attorney-client privilege, work product privilege, or on any other basis, and to specify in writing the grounds for your withholding such documents. All such documents shall be segregated, and retained by your counsel pending a ruling by the Court on the claimed privilege. Each document shall be identified by:

(1) Author and recipient(s), including titles of such persons;

(2) Date of document;

(3) Number of pages, attachments, and appendices;

(4) A general description of the nature and subject matter of the document;

(5) Subject matter and nature of privilege claimed;

(6) Present custodian; and

(7) Reason the document was not produced.

Material Lost Or destroyed

If any responses to these interrogatories are incomplete because have been lost, discarded or destroyed, the materials so lost, discarded or destroyed shall be identified as completely as possible, including identification as set forth above under "Privileged Matter" and the following information: date of disposal or loss, person authorizing the disposal, persons having knowledge of the disposal or loss, and person disposing of the document.

Interrogatories

1. Identify all communication between and among Spamhaus, Spamhaus Technology, Spamhaus volunteers, other businesses, customers, and ISP's concerning e360 and/or Dave Linhardt.

2. Identify all communication between and among Spamhaus, Spamhaus Technology, Spamhaus volunteers, other businesses, customers, and ISP's concerning this litigation.

3. Identify all communication between Spamhaus, Spamhaus Technology, Spamhaus volunteers, other businesses, customers, and ISP's on the one hand and e360Insight and/or Dave Linhardt on the other.

4. Identify all communication between Spamhaus, Spamhaus Technology, Spamhaus volunteers, other businesses, customers, and ISP's on the one hand and customers of e360Insight and/or Dave Linhardt on the other.

5. Identify all entities that subscribe or otherwise have access to the SBL and ROKSO list.

6. Identify all bank accounts, stocks, funds or any other institution where assets of Spamhaus are located, including the amount of money in each such location.

7. Identify the person or persons involved in the decision to list IP addresses on the SBL.

8. Identify the person or persons involved in the decision to place IP addresses controlled by e360 and/or Dave Linhardt on the SBL.

9. Identify the person or persons involved in the decision to list individuals or entities on the ROKSO list.

10. Identify the person or persons involved in the decision to list e360 and/or Dave Linhardt on the ROKSO list

11. Identify all communications between and among Spamhaus and any other entities regarding the blocking of IP addresses and the placing of entities or individuals on the ROKSO list.

12. Identify all communications between and among Spamhaus and any other entities regarding warnings or threats to block IP addresses and/or the placing of entities or individuals on the ROKSO list.

13. Identify all employees and volunteers of Spamhaus and identify the job/function they perform, their salary and any other compensation they receive.

14. Identify the corporate structure of Spamhaus including:

a. all officers;

b. employees

c. members;

d. directors; and,

e. shareholders.

15. For each shareholder identified in response to Interrogatory 16, state the number of shares owned, the percentage of total shares owned and the current value per share.

16. Identify the profits and losses of Spamhaus on a yearly basis from 2004 to the present.

17. Identify the amount of taxes Spamhaus has paid on a yearly basis from 2004 to the present.

18. Identify all sources of revenue or income of Spamhaus including all donors and the amount of money each individual donated.

19. Identify the location of where data and other assets are stored.

20. Identify the entity that hosts your domain.

21. Identify every company or entity that resells the information generated by you.

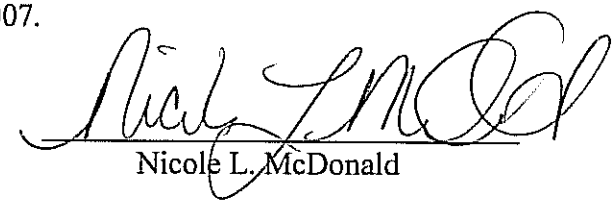
E360Insight, LLC.

By: _____
One of Their Attorneys

Bartley J. Loethen (6225484)
Joseph L. Kish (6197916)
Daniel J. Peters (6272859)
Synergy Law Group, LLC
730 West Randolph, 6th Floor
Chicago, Illinois 60661
Telephone: (312) 454-0015
Facsimile: (312) 454-0261

CERTIFICATE OF SERVICE

The undersigned, a non-attorney, certifies that she caused a copy of the attached Plaintiffs' First Set of Interrogatories to Defendant, to be served upon the parties listed below, via U.S. Mail on December 28, 2007.



Nicole L. McDonald

Chad Emerson Bell
Craig Christopher Martin
Carrie A Fino
Stephen M Geissler
David Eric Jimenez-Ekman
Jenner & Block LLP
One IBM Plaza
Chicago, IL 60611

EXHIBIT

B

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

e360 INSIGHT, LLC, an Illinois Limited Liability Company, and DAVID LINHARDT, an individual,	)	Case No. 06 C 3958
Plaintiffs,	)	Hon. Charles P. Kocoras
v.	)	
THE SPAMHAUS PROJECT, a company limited by guarantee and organized under the laws of England, a/k/a THE SPAMHAUS PROJECT, LTD.,	)	
Defendant.	)	

THE SPAMHAUS PROJECT'S REVISED RESPONSES
AND OBJECTIONS TO PLAINTIFFS' FIRST SET OF INTERROGATORIES

The Spamhaus Project ("Spamhaus"), by its attorneys, revises its responses and objections to Plaintiffs e360 Insight, LLC and David Linhardt's First Set of Interrogatories as follows:

GENERAL OBJECTIONS

1. Spamhaus objects to each of the Interrogatories to the extent that they seek documents that are neither relevant to the subject matter of damages nor reasonably calculated to lead to the discovery of admissible evidence on the issue of damages. Discovery in this case has been limited to the issue of damages, as held by the Seventh Circuit in its decision to "vacate the damages award and remand to the district court for a more extensive inquiry into the damages to which e360 is entitled." *e360 Insight, LLC v. The Spamhaus Project*, 500 F.3d 594, 603 (7th Cir. 2007). Accordingly, this Court has ordered discovery "as suggested by the Court of Appeals."

Transcript of October 23, 2007 Proceedings, *e360 Insight, LLC v. The Spamhaus Project*, Case No. 06-C-3958.

2. Spamhaus objects to each of the Interrogatories to the extent that the information sought is confidential, the interrogatory is improper because it seeks information with no relationship to any potential damages claim, and the interrogatory is merely a fishing expedition for other potential claims.

3. Spamhaus objects to the Interrogatories to the extent that they seek to impose on Spamhaus duties and obligations beyond those imposed by the Federal Rules of Civil Procedure or the Local Rules of the United States District Court for the Northern District of Illinois. Specifically, and without limitation, Spamhaus objects to the "Definitions" and "Instructions" contained in the Request for Production to the extent that they differ from or impose duties or obligations beyond those set forth in the applicable Rules. Spamhaus will conduct a reasonably diligent search and will produce documents responsive to the Request for Production consistent with its obligations under the applicable Rules and subject to the objections set forth herein.

4. Spamhaus objects to the Interrogatories to the extent that any particular request is duplicative or cumulative of other requests.

5. Spamhaus objects to the Interrogatories to the extent that the information requested is in the possession, custody, or control of e360 or David Linhardt or is obtainable from other sources that are more convenient, less burdensome, or less expensive.

6. Spamhaus objects to the Interrogatories to the extent they seek information not in Spamhaus' possession, custody, or control or information that is obtainable from other sources that are more convenient, less burdensome, or less expensive.

7. All of Spamhaus' objections and answers are based upon information that is presently available and specifically known to Spamhaus. Spamhaus expressly reserves the right to amend any of its objections and answers to these Interrogatories based upon the discovery of additional information.

8. Spamhaus objects to the Interrogatories to the extent they seek information that is protected from disclosure by any applicable privilege or immunity, including the attorney-client privilege and the work product doctrine. Spamhaus will not disclose such information. To the extent Spamhaus inadvertently discloses any privileged information, such inadvertent disclosure shall not be deemed a waiver of protection.

9. Spamhaus objects to the Interrogatories to the extent they assume facts that do not exist or facts that are incorrect. By responding to a particular interrogatory, Spamhaus does not indicate that they agree, admit, or otherwise acknowledge the characterizations or assumptions of fact or law contained therein.

10. Spamhaus objects to the Interrogatories to the extent that any particular interrogatory is overly broad, vague, ambiguous, misleading, subject to differing interpretations, or otherwise objectionable under the Federal Rules of Civil Procedure. Spamhaus reserves the right to raise additional objections if and when counsel for Spamhaus and counsel for e360 and David Linhardt clarify the scope, meaning, or nature of a request through good faith communications and negotiations within the meaning of the Federal Rules of Civil Procedure.

11. These General Objections are incorporated by reference into each specific response as if fully set forth therein.

RESPONSES TO INTERROGATORIES

1. Identify all communications between and among Spamhaus, Spamhaus Technology, Spamhaus volunteers, other businesses, customers, and ISP's concerning e360 and/or Dave Linhardt.

Response: In addition to the General Objections, Spamhaus objects to Interrogatory No. 1 on the grounds that it is vague, ambiguous, and overbroad to the extent it seeks information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence. First, this interrogatory is not relevant because it does not seek information relating to damages, but rather to liability, which is not at issue or subject to discovery at this time. Second, this interrogatory requests information not in Spamhaus' possession, custody, or control, but rather within the possession, custody, or control of independent third parties to this lawsuit, such as "Spamhaus Technology," "other businesses," "customers," and "ISP's." Third, this interrogatory is overbroad due to its unlimited time frame and misdirected focus.

Subject to and without waiving its objections, Spamhaus answers that it only communicates with ISPs through sbl-removals@spamhaus.org. ISPs advise Spamhaus when a particular SBL listing has been resolved. Subject to and without waiving its objections, Spamhaus will produce any responsive, non-privileged email message sent to sbl-removals@spamhaus.org for any SBL listing relating to Plaintiffs. However, because Plaintiffs use many anonymously-registered aliases, in addition to providing communications that specifically refer to e360 or David Linhardt, Spamhaus also provides the communications that it has received from ISPs concerning the SBL listings at issue in this lawsuit. These documents are marked and produced as SH0025-SH0031. Spamhaus answers further that any communications with counsel are protected by the attorney-client privilege and will not be produced. Additionally, Spamhaus has responded to public questions posed about e360 in a Usenet newsgroup - news.admin.net-abuse.email ("NANAE"), which is a public online email abuse

newsgroup. Spamhaus does not have any documents related to these posts, but they are publicly available via Google Newsgroups search page (see http://groups.google.com/groups/search?q =e360 and http://groups.google.com/groups/search?hl=en&q=e360insight&qt_s=Search).

2. Identify all communications between and among Spamhaus, Spamhaus Technology, Spamhaus volunteers, other businesses, customers, and ISP's concerning this litigation.

Response: In addition to the General Objections, Spamhaus objects to Interrogatory No. 2 on the grounds that it is vague, ambiguous, and overbroad to the extent it seeks information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence. First, this interrogatory is not relevant because it does not seek information relating to damages, but rather to liability, which is not at issue or subject to discovery at this time. Second, this interrogatory requests information not in Spamhaus' possession, custody, or control, but rather within the possession, custody, or control of independent third parties to this lawsuit, such as "Spamhaus Technology," "other businesses," "customers," and "ISP's." Third, this interrogatory is overbroad due to its unlimited time frame and misdirected focus.

Subject to and without waiving its objections, Spamhaus answers that it has responded to public questions posed about e360 in a Usenet newsgroup - news.admin.net-abuse.email ("NANAE"), which is a public online email abuse newsgroup. Spamhaus does not have any documents related to these posts, but they are publicly available via Google Newsgroups search page (see http://groups.google.com/groups/search?q=e360 and http://groups.google.com/groups/search?hl=en&q=e360insight&qt_s=Search). Spamhaus answers further that any other communications would be with counsel. Those communications are protected by the attorney-client privilege and will not be produced.

3. Identify all communications between Spamhaus, Spamhaus Technology, Spamhaus volunteers, other businesses, customers, and ISP's on the one hand and e360Insight and/or Dave Linhardt on the other.

Response: In addition to the General Objections, Spamhaus objects to Interrogatory No. 3 on the grounds that it is vague, ambiguous, and overbroad to the extent it seeks information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence. First, this interrogatory is not relevant because it does not seek information relating to damages, but rather to liability, which is not at issue or subject to discovery at this time. Second, this interrogatory requests information not in Spamhaus' possession, custody, or control, but rather within the possession, custody, or control of independent third parties to this lawsuit, such as "Spamhaus Technology," "other businesses," "customers," and "ISP's." Third, the information requested is in the possession, custody, or control of e360 or David Linhardt. Fourth, this interrogatory is overbroad due to its unlimited time frame and misdirected focus.

Subject to and without waiving its objections, Spamhaus produces the communications sent by David Linhardt to the SBL Removals email account. These documents are marked and produced as SH0032-SH0037.

4. Identify all communication between Spamhaus, Spamhaus Technology, Spamhaus volunteers, other businesses, customers, and ISP's on the one hand and customers of e360Insight and/or Dave Linhardt on the other.

Response: In addition to the General Objections, Spamhaus objects to Interrogatory No. 4 on the grounds that it is vague, ambiguous, and overbroad to the extent it seeks information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence. First, this interrogatory is not relevant because it does not seek information relating to damages, but rather to liability, which is not at issue or subject to discovery at this time. Second, this interrogatory requests information not in Spamhaus' possession, custody, or control, but rather within the possession, custody, or control of independent third parties to this lawsuit, such as "Spamhaus

Technology," "other businesses," "customers," and "ISP's." Third, this interrogatory is overbroad due to its unlimited time frame and misdirected focus.

Subject to and without waiving its objections, Spamhaus answers that it does not have any communications with the customers of e360Insight and/or David Linhardt. Additionally, due to the protective order entered in this case and the fact that Plaintiffs have listed their customer list as "Attorneys Eyes Only," Spamhaus has no knowledge about entities that would fall under the category of "customers." However, Spamhaus produces the email communications that John Rudnick (ChiTownAds.com) sent to the SBL Removal email account and any Spamhaus responses. See documents marked and produced as SH0028-SH0029; SH0038-SH0046. Spamhaus answers that it has not knowingly or intentionally directed any communication at SmartBargains, OptinRealBig, Vendare Media, Sprint, or Netsonic regarding e360 or David Linhardt. However, Spamhaus has received one communication from Sprint regarding e360 or David Linhardt: "We have terminated service for e360insight and David Linhardt due to their distribution of UCE. This termination was effective Monday, November 22. Please remove SBL 17529 from the Spamhaus Block List." This document is produced at SH0030. Additionally, Spamhaus has received one email communication from Netsonic regarding e360 or David Linhardt: "We have terminated the spammer listed in SBL40411 and SBL39834. Please verify and expire the SBL listings once you have verified their connectivity no longer exists." This document is produced at SH0031.

5. Identify all entities that subscribe or otherwise have access to the SBL and ROKSO list.

Response: In addition to the General Objections, Spamhaus objects to Interrogatory No. 5 on the grounds that it is vague, ambiguous, and overbroad to the extent it seeks information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence. This

interrogatory is not relevant because it does not seek information relating to damages and is outside the scope of allowable discovery pursuant to the opinion by the Seventh Circuit. Additionally, this interrogatory is overbroad due to its unlimited time frame and misdirected focus.

Subject to and without waiving its objections, Spamhaus answers that no individuals or entities "subscribe" to the SBL or ROKSO list. Furthermore, any person or entity with access to the Internet can access the SBL and ROKSO list on Spamhaus' website. Therefore, Spamhaus cannot produce a list of entities that have access to the SBL because it is a free public service that is used voluntarily by Internet networks worldwide. The SBL list is used by 1.4 billion email users worldwide, none of which are required to provide their names or details to Spamhaus in order to view the SBL. Spamhaus answers further that there is a separate "classified" ROKSO list portal with restricted access to law enforcement agencies only. These agencies include the Federal Bureau of Investigation, the National Cyber Forensics Training Alliance, the United States Secret Service, the Federal Trade Commission, the National White Collar Crime Center, and the United States Postal Inspection Service.

6. Identify all bank accounts, stocks, funds or any other institution where assets of Spamhaus are located, including the amount of money in each such location.

Response: In addition to the General Objections, Spamhaus objects to Interrogatory No. 6 on the grounds that it is overly broad, unduly burdensome, and seeks documents not relevant or reasonably calculated to lead to the discovery of admissible evidence on the issue of damages. Spamhaus' financial position is not relevant to what damages Plaintiffs have allegedly suffered. It is Plaintiffs who are claiming that their financial position has been affected by Spamhaus' actions, and the Seventh Circuit has ordered them to prove it. *e360 Insight, LLC v. The*

Spamhaus Project, 500 F.3d 594, 603 (7th Cir. 2007). Thus, Plaintiffs' financial information is relevant, but Spamhaus' financial information is not.

Subject to and without waiving its objections, Spamhaus answers that this information was provided on November 10, 2006 in response to a Citation to Discover Assets. This document is marked and produced as SH1395-SH1402. In the November 10, 2006 Response, Spamhaus disclosed that it "does not have any stocks, funds, bonds, securities or any other investments. Spamhaus' assets consist only of one Macintosh computer and a bank account located in London, United Kingdom for approximately $14,000." Spamhaus answers further that, the only change to the November 10, 2006 Response is that the bank account, as of June 4, 2008, contains approximately $1,005.00. Additionally, Spamhaus answers that it is a British non-profit company. British non-profit companies are generally non-trading entities and do not have shares (or shareholders). Spamhaus does not own any stock or other such assets.

7. Identify the person or persons involved in the decision to list IP addresses on the SBL.

Response: In addition to the General Objections, Spamhaus objects to Interrogatory No. 7 on the grounds that it is vague, ambiguous, and overbroad to the extent it seeks information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence. This interrogatory is not relevant because it does not seek information relating to damages and is outside the scope of allowable discovery pursuant to the opinion by the Seventh Circuit. Additionally, this interrogatory is overbroad due to its unlimited time frame and misdirected focus.

8. Identify the person or persons involved in the decision to place IP addresses controlled by e360 and/or Dave Linhardt on the SBL.

Response: In addition to the General Objections, Spamhaus objects to Interrogatory No. 8 on the grounds that it is vague, ambiguous, and overbroad to the extent it seeks information that is

not relevant or reasonably calculated to lead to the discovery of admissible evidence. This interrogatory is not relevant because it does not seek information relating to damages and is outside the scope of allowable discovery pursuant to the opinion by the Seventh Circuit. Additionally, this interrogatory is overbroad due to its unlimited time frame and misdirected focus.

9. Identify the person or persons involved in the decision to list individuals or entities on the ROKSO list.

Response: In addition to the General Objections, Spamhaus objects to Interrogatory No. 9 on the grounds that it is vague, ambiguous, and overbroad to the extent it seeks information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence. This interrogatory is not relevant because it does not seek information relating to damages and is outside the scope of allowable discovery pursuant to the opinion by the Seventh Circuit. Additionally, this interrogatory is overbroad due to its unlimited time frame and misdirected focus.

Subject to and without waiving its objections, Spamhaus answers that Spamhaus has not placed e360 or David Linhardt on its ROKSO list. Rather, Brian Haberstroh of Atriks was placed on the ROKSO list because, in accordance with Spamhaus' listing policy, he had been terminated by 5 ISPs for submitting spam. Although supplemental records related to Haberstroh's ROKSO listing expressed Spamhaus' belief that David Linhardt and e360 were "partner[s] in spam" with Haberstroh, David Linhardt and e360 have not been listed directly on Spamhaus' ROKSO list.

10. Identify the person or persons involved in the decision to list e360 and/or Dave Linhardt on the ROKSO list.

Response: In addition to the General Objections, Spamhaus objects to Interrogatory No. 10 on the grounds that it is vague, ambiguous, and overbroad to the extent it seeks information that

is not relevant or reasonably calculated to lead to the discovery of admissible evidence. This interrogatory is not relevant because it does not seek information relating to damages and is outside the scope of allowable discovery pursuant to the opinion by the Seventh Circuit. Additionally, this interrogatory is overbroad due to its unlimited time frame and misdirected focus.

Subject to and without waiving its objections, Spamhaus answers that Spamhaus has not placed e360 or David Linhardt on its ROKSO list. Rather, Brian Haberstroh of Atriks was placed on the ROKSO list because, in accordance with Spamhaus' listing policy, he had been terminated by 5 ISPs for submitting spam. Although supplemental records related to Haberstroh's ROKSO listing expressed Spamhaus' belief that David Linhardt and e360 were "partner[s] in spam" with Haberstroh, David Linhardt and e360 have not been listed directly on Spamhaus' ROKSO list.

11. Identify all communications between and among Spamhaus and any other entities regarding the blocking of IP addresses and the placing of entities or individuals on the ROKSO list.

Response: In addition to the General Objections, Spamhaus objects to Interrogatory No. 11 on the grounds that it is vague, ambiguous, and overbroad to the extent it seeks information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence. This interrogatory is not relevant because it does not seek information relating to damages and is outside the scope of allowable discovery pursuant to the opinion by the Seventh Circuit. Additionally, this interrogatory is overbroad due to its unlimited time frame and misdirected focus.

Subject to and without waiving its objections, Spamhaus answers that it has no responsive documents.

12. Identify all communications between and among Spamhaus and any other entities regarding warnings or threats to block IP addresses and/or the placing of entities or individuals on the ROKSO list.

Response: In addition to the General Objections, Spamhaus objects to Interrogatory No. 12 on the grounds that it is vague, ambiguous, and overbroad to the extent it seeks information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence. This interrogatory is not relevant because it does not seek information relating to damages and is outside the scope of allowable discovery pursuant to the opinion by the Seventh Circuit. Additionally, this interrogatory is overbroad due to its unlimited time frame and misdirected focus.

Subject to and without waiving its objections, Spamhaus answers that it has no responsive documents.

13. Identify all employees or volunteers of Spamhaus and identify the job/function they perform, their salary and any other compensation they receive.

Response: In addition to the General Objections, Spamhaus objects to Interrogatory No. 13 on the grounds that it is overly broad, unduly burdensome, and seeks documents not relevant or reasonably calculated to lead to the discovery of admissible evidence on the issue of damages. A list of Spamhaus' employees or volunteers is not relevant to what damages Plaintiffs have allegedly suffered. This interrogatory is not relevant because it does not seek information relating to damages and is outside the scope of allowable discovery pursuant to the opinion by the Seventh Circuit. Additionally, this interrogatory is overbroad due to its unlimited time frame and misdirected focus.

14. Identify the corporate structure of Spamhaus including: a.) all officers; b.) employees; c.) members; d.) directors; and, e.) shareholders.

Response: In addition to the General Objections, Spamhaus objects to Interrogatory No. 14 on the grounds that it is overly broad, unduly burdensome, and seeks documents not relevant or

reasonably calculated to lead to the discovery of admissible evidence on the issue of damages. The corporate structure of Spamhaus is not relevant to what damages Plaintiffs have allegedly suffered. This interrogatory is not relevant because it does not seek information relating to damages and is outside the scope of allowable discovery pursuant to the opinion by the Seventh Circuit. Additionally, this interrogatory is overbroad due to its unlimited time frame and misdirected focus.

Subject to and without waiving its objections, Spamhaus answers that this information was provided on November 10, 2006 in response to a Citation to Discover Assets. This document is marked and produced as SH1395-SH1402.

15. For each shareholder identified in response to Interrogatory 16 [sic], state the number of shares owned, the percentage of total shares owned and the current value per share.

Response: In addition to the General Objections, Spamhaus objects to Interrogatory No. 15 on the grounds that it is overly broad, unduly burdensome, and seeks documents not relevant or reasonably calculated to lead to the discovery of admissible evidence on the issue of damages. Information related to any of Spamhaus' shareholders is not relevant to what damages Plaintiffs have allegedly suffered. This interrogatory is not relevant because it does not seek information relating to damages and is outside the scope of allowable discovery pursuant to the opinion by the Seventh Circuit. Additionally, this interrogatory is overbroad due to its unlimited time frame and misdirected focus.

Subject to and without waiving its objections, Spamhaus answers that this information was provided on November 10, 2006 in response to a Citation to Discover Assets. This document is marked and produced as SH1395-SH1402. Spamhaus answers further that as a British non-profit company, it does not have any shares or shareholders.

16. Identify the profits and losses of Spamhaus on a yearly basis from 2004 to the present.

Response: In addition to the General Objections, Spamhaus objects to Interrogatory No. 16 on the grounds that it is overly broad, unduly burdensome, and seeks documents not relevant or reasonably calculated to lead to the discovery of admissible evidence on the issue of damages. Spamhaus' financial position is not relevant to what damages, if any, Plaintiffs have allegedly suffered. It is Plaintiffs who are claiming that their financial position has been affected by Spamhaus' actions, and the Seventh Circuit has ordered them to prove it. *e360 Insight, LLC v. The Spamhaus Project*, 500 F.3d 594, 603 (7th Cir. 2007). Thus, Plaintiffs' financial information for the requested time period is relevant, but Spamhaus' financial information is not.

Subject to and without waiving its objections, Spamhaus answers that this information was provided through 2006 in the November 10, 2006 in response to a Citation to Discover Assets. This document is marked and produced as SH1395-SH1402.

17. Identify the amount of taxes Spamhaus has paid on a yearly basis from 2004 to the present.

Response: In addition to the General Objections, Spamhaus objects to Interrogatory No. 17 on the grounds that it is overly broad, unduly burdensome, and seeks documents not relevant or reasonably calculated to lead to the discovery of admissible evidence on the issue of damages. Spamhaus' tax status is not relevant to what damages, if any, Plaintiffs have allegedly suffered. It is Plaintiffs who are claiming that their financial position has been affected by Spamhaus' actions, and the Seventh Circuit has ordered them to prove it. *e360 Insight, LLC v. The Spamhaus Project*, 500 F.3d 594, 603 (7th Cir. 2007). Thus, Plaintiffs' financial information for the requested time period is relevant, but Spamhaus' financial information is not.

Subject to and without waiving its objections, Spamhaus answers that this information was provided through 2006 in the November 10, 2006 in response to a Citation to Discover Assets. This document is marked and produced as SH1395-SH1402.

18. Identify all sources of revenue or income of Spamhaus including all donors and the amount of money each individual donated.

Response: In addition to the General Objections, Spamhaus objects to Interrogatory No. 18 on the grounds that it is overly broad, unduly burdensome, and seeks documents not relevant or reasonably calculated to lead to the discovery of admissible evidence on the issue of damages. The source of any revenue or income for Spamhaus is not relevant to what damages, if any, Plaintiffs have allegedly suffered. It is Plaintiffs who are claiming that their financial position has been affected by Spamhaus' actions, and the Seventh Circuit has ordered them to prove it. *e360 Insight, LLC v. The Spamhaus Project*, 500 F.3d 594, 603 (7th Cir. 2007). Thus, Plaintiffs' financial information is relevant, but Spamhaus' financial information is not.

Subject to and without waiving its objections, Spamhaus answers that this information was provided on November 10, 2006 in response to a Citation to Discover Assets. This document is marked and produced as SH1395-SH1402. The sole source of Spamhaus' revenue comes from donations from the public. Spamhaus respects the privacy and confidentiality of donors and because a list of donors is irrelevant to this lawsuit, will not provide the names of donors.

19. Identify the location of where data and other assets are stored.

Response: In addition to the General Objections, Spamhaus objects to Interrogatory No. 19 on the grounds that it is overly broad, unduly burdensome, and seeks documents not relevant or reasonably calculated to lead to the discovery of admissible evidence on the issue of damages. The location of data and other assets for Spamhaus is not relevant to what damages, if any,

Plaintiffs have allegedly suffered. It is Plaintiffs who are claiming that their financial position has been affected by Spamhaus' actions, and the Seventh Circuit has ordered them to prove it. *e360 Insight, LLC v. The Spamhaus Project*, 500 F.3d 594, 603 (7th Cir. 2007). Thus, Plaintiffs' financial information is relevant, but Spamhaus' financial information is not.

20. Identify the entity that hosts your domain.

Response: In addition to the General Objections, Spamhaus objects to Interrogatory No. 20 on the grounds that it is overly broad, unduly burdensome, and seeks documents not relevant or reasonably calculated to lead to the discovery of admissible evidence on the issue of damages. The identity of the entity that hosts Spamhaus' domain is not relevant to what damages, if any, Plaintiffs have allegedly suffered.

Subject to and without waiving its objections, Spamhaus answers that the entity that hosts Spamhaus' domain is Gandi SAS based in Paris, France.

21. Identify every company or entity that resells the information generated by you.

Response: In addition to the General Objections, Spamhaus objects to Interrogatory No. 21 on the grounds that it is overly broad, unduly burdensome, and seeks documents not relevant or reasonably calculated to lead to the discovery of admissible evidence on the issue of damages. The identity of any company that resells any information generated by Spamhaus is not relevant to what damages, if any, Plaintiffs have allegedly suffered. Furthermore, this interrogatory requests information not in Spamhaus' possession, custody, or control, but rather within the possession, custody, or control of independent third parties not involved in this lawsuit.

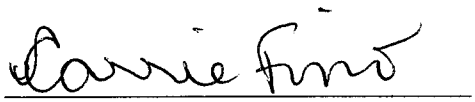
Subject to and without waiving its objections, Spamhaus answers that it does not sell any data, product, or service and does not have any resellers. Many independent third parties sell services and products which incorporate or use data generated by Spamhaus. However, as the

data is freely available on the internet, none of these independent vendors have any contract with, connection to, or remit any funds to Spamhaus.

Respectfully submitted,

THE SPAMHAUS PROJECT

Dated: June 10, 2008

By: 

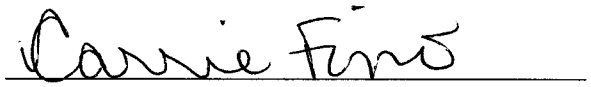
Craig C. Martin
David Jiménez-Ekman
Carrie A. Fino
JENNER & BLOCK LLP
330 North Wabash Avenue
Chicago, IL 60611
Telephone: (312) 222-9350
Facsimile: (312)527-0484

CERTIFICATE OF SERVICE

I, Carrie A. Fino, an attorney, hereby certify that I served **The Spamhaus Project's Revised Responses and Objections to Plaintiffs' First Set of Interrogatories** upon:

Bartly Joseph Loethen
Daniel J. Peters
Synergy Law Group, L.L.C.
730 West Randolph Street
6th Floor
Chicago, IL 60661
Phone: (312) 454-0015
Fax: (312) 454-0261

by causing a copy of same to be sent by UPS (next day delivery) on this 10th day of June 2008.



Carrie Fino